

EMPLOYMENT AND TRAINING ADMINISTRATION ADVISORY SYSTEM U.S. DEPARTMENT OF LABOR Washington, D.C. 20210	<b>CLASSIFICATION</b> Trafficking Victims Protection Act
	<b>CORRESPONDENCE SYMBOL</b> OWI/OPDR
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**TRAINING AND EMPLOYMENT GUIDANCE LETTER NO. 19-01, Change 1**

**TO:** ALL STATE WORKFORCE LIAISONS  
 ALL STATE WORKFORCE AGENCIES  
 ALL STATE WORKER ADJUSTMENT LIAISONS  
 ALL ONE-STOP CENTER SYSTEM LEADS

**FROM:** BRENT R. ORRELL /s/  
 Deputy Assistant Secretary

**SUBJECT:** Victims of Trafficking and Violence Protection Act of 2000; Trafficking Victims Protection Reauthorization Acts of 2003 and 2005; and the Role of the Workforce Investment System in the Delivery of Services for Victims of Trafficking

1. **Purpose.** To provide updated information to the workforce investment system, and particularly the One-Stop Career Centers, on the Trafficking Victims Protection Act of 2000 and the Trafficking Victims Protection Reauthorization Acts of 2003 and 2005, and guidance on how the One-Stop delivery system can provide assistance to trafficking victims under the Workforce Investment Act of 1998.
2. **References.** The Victims of Trafficking and Violence Protection Act of 2000 (Public Law 106-386) (containing the Trafficking Victims Protection Act (TVPA)); the Trafficking Victims Protection Reauthorization Act of 2003 (Public Law 108-193) (TVPRA 2003); the Trafficking Victims Protection Reauthorization Act of 2005 (Public Law 109-164) (TVPRA 2005)); the Workforce Investment Act of 1998 (WIA) (Public Law 105-220, 29 U.S.C. 2801 et seq.); WIA Final Rule, 20 C.F.R. parts 652, 660-671 (65 F.R. 49294 (August 11, 2000)); Interim Final Rule implementing the non-discrimination and equal opportunity provision (section 188) of WIA, 29 C.F.R. part 37 (64 F.R. 61692 (November 12, 1999)); and the Immigration and Nationality Act (8 U.S.C. 1101- 1537).
3. **Background.** Trafficking in persons is a modern form of slavery. Approximately 600,000 to 800,000 persons annually, primarily women and children, are trafficked within or across international borders. Victims are often lured into trafficking networks through false promises of good working conditions and high pay as domestic workers, factory and farm workers, nannies, waitresses, sales clerks, or

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models. Other victims are simply kidnapped. Traffickers force their victims into the international sex trade, prostitution, slavery, and forced labor through coercion, threats of physical violence, psychological abuse, torture and imprisonment. It is believed that most victims who are trafficked remain undetected by the public because the strategies used by the perpetrators isolate victims and prevent them from coming forward, and the public and victim service providers have only recently become aware of this issue and may not be familiar with how to recognize or respond to trafficking victims.

According to the findings of Congress, as cited in the TVPA, trafficking in persons is increasingly perpetrated by organized, sophisticated criminal enterprises. Such trafficking is the fastest growing source of profits for organized criminal enterprises worldwide. Profits from the trafficking industry contribute to the expansion of organized crime in the United States and worldwide (Section 102(b)(8)). To deter these crimes, the TVPA was enacted in October 2000, and reauthorized in December 2003 (Public Law 108-193), and in January 2005 (Public Law 109-164). Its aims are to combat trafficking worldwide through increased law enforcement, to prevent trafficking through international initiatives, to ensure effective punishment of traffickers, to protect victims and to provide Federal and state assistance to victims.

The law applies to victims physically present in the 50 states of the United States, the District of Columbia, the Commonwealth of Puerto Rico, the U.S. Virgin Islands, American Samoa, Guam, and the Commonwealth of the Northern Mariana Islands. The TVPRA 2005 added extraterritorial jurisdiction over trafficking offenses committed overseas by persons employed by or accompanying the Federal government. Section 103; 18 U.S.C. 3271.

To improve prosecution efforts, the Attorney General has issued guidance concerning Federal prosecutions under the TVPA, detailing the important law enforcement tools available under the TVPA. For example, those convicted of trafficking offenses may be imprisoned for up to 20 years and, in some instances, for life. Moreover, the TVPA includes criminal provisions to address the subtle means of coercion that traffickers often use to bind their victims in servitude, including: psychological coercion, trickery, peonage, debt bondage, and the seizure of documents, activities which were difficult to prosecute under pre-existing involuntary servitude statutes and case law.

The following are descriptions of some of the cases the Department of Justice has prosecuted in Fiscal Year 2007 alone:

- Two defendants, who operated a worldwide perfume business, were convicted at trial of forced labor and harboring illegal aliens for keeping two Indonesian women as slaves in their luxurious Long Island home following a U.S. Immigration and Customs Enforcement investigation. The victims were forced to work long hours and to sleep on mats on the floor, given little food,

kept hidden when visitors came to the home, threatened with violence and frequently beaten.

- A husband and wife were convicted at trial for bringing workers from the Philippines illegally and forcing them to work in their hotel. The defendants were also convicted for providing false statements to Federal investigators during the investigation.
- Four defendants were charged with conspiracy to engage in forced labor, bringing in illegal aliens for financial gain and harboring aliens. The defendants recruited and smuggled individuals from Mexico into the United States where the individuals were harbored and employed. Once the aliens were in the United States, the defendants threatened to kill or harm them and their families in Mexico in order to compel their continued labor and reimbursement of smuggling debts. Three defendants pleaded guilty and one defendant is a fugitive. One of the three convicted by plea was sentenced to a term of 13 months.

4. **Definitions.** Under sections 107(b)(1)(A) and (B), the TVPA requires that the Secretary of Labor provide benefits and services to victims of severe forms of trafficking in persons to the same extent as aliens who are admitted to the United States as refugees, without regard to their immigration status. Under section 103(8) of the Act, the term “severe forms of trafficking in persons” means:

(A) sex trafficking in which a commercial sex act is induced by force, fraud, or coercion, or in which the person induced to perform such act has not attained 18 years of age; or

(B) the recruitment, harboring, transportation, provision, or obtaining of a person for labor or services, through the use of force, fraud, or coercion for the purpose of subjection to involuntary servitude, peonage, debt bondage, or slavery.

In the TVPRA 2005, the term “juvenile subjected to trafficking” is defined as “a United States citizen, or alien admitted for permanent residence, who is the subject of sex trafficking or severe forms of trafficking in persons that occurs, in whole or in part, within the territorial jurisdiction of the United States and who has not attained 18 years of age at the time the person is identified as having been the subject of sex trafficking or severe forms of trafficking in persons.” TVPRA 2005, Section 203; 42 U.S.C. 14044b. The term “severe forms of trafficking in persons” has the meaning given the term in section 103(8) of the TVPA. 22 U.S.C. 7102(8).

## 5. Victims of Human Trafficking in the One -Stop Delivery System.

One-Stop Career Center staff can assist trafficking victims in several ways:

First, if an individual comes to a One-Stop Career Center who may be a victim of trafficking, a call to the National Human Trafficking Resource Center (NHTRC) at

1-888-3737-888 can help One-Stop Career Center staff determine the best steps for assisting the individual. The NHTRC serves as a triage for multiple hotlines and connects callers to the appropriate resources, such as local human trafficking task forces, social service providers, law enforcement agencies, or training and technical assistance resources.

**National Human Trafficking Resource Center: 1-888-3737-888**

**Trafficking in Persons/ Worker Exploitation Hotline: 1-888-428-7581**

**DOJ Human Trafficking Prosecution Unit: 202-514-3204**

If there is an immediate need to contact law enforcement, One-Stop Career Center staff should call 911 to report the crime and may also call the NHTRC. Another option is to call the U. S. Department of Justice’s Trafficking in Persons and Worker Exploitation Task Force complaint hotline at 1-888-428-7581. This toll-free hotline is available Monday through Friday from 9:00 a.m. to 5:00 p.m. Eastern Time; and has the capability to translate up to 150 languages. One-Stop staff may also contact the U.S. Department of Justice’s Human Trafficking Prosecution Unit at (202) 514-3204.

Second, once an individual has been determined to be a victim of a severe form of trafficking, One-Stop Career Center staff can provide services under WIA Title I. Under section 107(b) of the TVPA, an alien who is a victim of a severe form of trafficking is eligible for WIA on the same basis as individuals with refugee status under section 207 of the Immigration and Nationality Act. Thus, all states, including those that generally limit eligibility for WIA services to the individuals specified in WIA section 188(a)(5), may not deny WIA-funded services available to victims of severe forms of trafficking based on their immigration status.

An alien’s status as a victim of a severe form of trafficking may be demonstrated in various ways. Some trafficking victims may have the

usual immigration documents needed to confirm eligibility. Others will have letters of certification from the Office of Refugee Resettlement in the Department of Health and Human Services (HHS). Victims of trafficking who have been certified by HHS are eligible for services under WIA Title I. As with any WIA participant, they must meet program eligibility requirements to receive WIA Title I services. A sample certification letter is attached for reference. Also attached is an HHS directive to its state partners that provides detailed information on the letters’ issuance and use.

**HHS Trafficking Victim Verification Hotline: 1-866-401-5510**

The certification process is handled by HHS at the Federal level, and any questions about these certification letters can be directed to the Trafficking Victim Verification hotline at 1-866-401-5510. This service is available Monday through Friday, 9:00 a.m. to 5:00 p.m., Eastern Time.

Children who are under 18 years old and who have been subjected to trafficking do not receive a certification letter from HHS. Instead, HHS issues Letters of Eligibility to minor victims of trafficking so that they may access Federal benefits and services. As with any participant, they must meet all applicable program eligibility requirements to receive WIA Title I services.

Some victims of trafficking will have been issued “T” visas that have been created by section 107(b)(1)(E) of the TVPA to protect trafficking victims. Aliens with T visas are eligible for WIA-funded services as immigrants authorized to work in the United States. This visa will be available to victims of a severe form of human trafficking who have complied with a reasonable request to assist the investigation or prosecution of traffickers, or who are under age 15, and who would "suffer extreme hardship involving unusual and severe harm" if made to leave the United States. 8 C.F.R. 214.11(b)(4). Because the families of trafficking victims who are still in the country of origin may be at risk, trafficking victims may petition to have their spouses and children, and if under 21, their parents, join them in the United States.

Other trafficking victims may be permitted to remain in the United States under section 107(c)(3) of the TVPA. Trafficking victims may be assisting authorities in the prosecution of their captors. In these cases, the victim witness coordinators in the local United States Attorney’s Office may be working with them to arrange necessary services. These witness coordinators have been instructed to contact their local One- Stop Career Center to arrange workforce investment services.

Third, many trafficking victims will require a broad range of social services, including provision of housing, protection from those who have exploited them, medical care, and counseling. Beyond the basic necessities, they very often will need basic literacy training and instruction in English and other academic and vocational services. Some of these services can be provided at a One-Stop Career Center, but assisting these individuals will require coordination among social service agencies and community- based organizations. For trafficking victims who meet the following qualifications, Job Corps may be the most appropriate program since it supplies the basic necessities, as well as training in English as a Second Language, literacy, and vocational training at one location. These qualifications are:

- Be between 16-24 years old. However, if the applicant has a documented disability, there is no upper age limit;
- Be a U.S. citizen , a U.S. national, a lawfully admitted permanent resident alien, refugee, asylum seeker, or parolee, or other alien who has been authorized by the Attorney General to work in the United States;
- Meet the low income requirements; and

- Be in need of additional education and training.

As described above, victims of severe forms of trafficking are treated as aliens who are admitted as refugees. In addition, individuals with T visas are considered to be authorized by the Attorney General to work in the United States.

6. **Other Department of Labor (DOL) Activities.** The DOL is engaged in combating trafficking and assisting its victims in several ways:

<b>International Labor Affairs Bureau (ILAB)</b>
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First, the Bureau of International Labor Affairs (ILAB) conducts research on child labor and trafficking issues, supports international technical cooperation initiatives to fight human trafficking, particularly the trafficking of children, and carries out DOL's legislative mandates involving trafficking in persons. Between 1995 and 2007, ILAB provided over \$230 million to organizations around the world for technical cooperation to combat commercial sexual exploitation (CSE) and trafficking in persons for the purpose of labor and commercial sexual exploitation. Projects funded by DOL may address trafficking and/or CSE as a central focus of the project, as one component of the project, or through capacity building, awareness-raising and research. ILAB also produces an annual report that addresses the steps countries are taking to eliminate the worst forms of child labor, which includes child trafficking. The report is statutorily-required and is prepared as part of the process for determining countries' eligibility for trade benefits with the United States. ILAB collects information from U.S. Embassies and other Federal agencies, foreign governments, and the public.

ILAB also serves as a liaison between DOL and the Department of State's Global Office to Monitor and Combat Trafficking in Persons (G/TIP), which coordinates anti-trafficking efforts government-wide. In this capacity, ILAB coordinates DOL's internal Working Group on Trafficking in Persons and prepares materials for DOL's participation in inter-agency anti-trafficking bodies, including the Senior Policy Operating Group (SPOG) and the President's Inter-Agency Task Force on Trafficking in Persons (PITF).

<b>Women's Bureau (WB)</b>
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Second, the Women's Bureau has prepared a publication, "Trafficking in Persons: A Guide for Non-governmental Organizations (NGOs)," which is intended to provide NGOs with information about Federal laws that prohibit trafficking in persons and the services victims may receive. A copy of this publication is attached. It is also available at the Women's Bureau Web site at:

<http://www.dol.gov/wb/media/reports/trafficking.htm>.

### Wage and Hour Division (WHD)

Third, DOL's Wage and Hour Division (WHD) continues to combat trafficking by increasing its emphasis on compliance with labor standards laws, such as the Fair Labor Standards Act, and Migrant and Seasonal Agriculture Worker Protection Act. WHD is "on the ground" in low wage industries like restaurants, garment manufacturing, and agriculture where forced labor is likely to be found. WHD civil law enforcement responsibilities relating to trafficking are carried out with the support of the Office of the Solicitor. WHD investigators interview workers and assess situations where workers may have been intimidated, threatened, or held against their will. WHD investigators also review payroll records, compute back wages, and inspect migrant farmworker housing. WHD also coordinates with other local law enforcement agencies to ensure restitution on behalf of victims of trafficking.

### Office of Inspector General (OIG)

Fourth, the DOL's Office of Inspector General's (OIG) Office of Labor Racketeering and Fraud Investigations (OLRFI) investigates allegations of fraud, waste, and abuse concerning DOL grants, contracts, programs and operations. These efforts include investigations of violations pertaining to the temporary and permanent foreign labor certification processes administered by ETA. OLRFI is committed to addressing labor related visa fraud that deprives honest immigrants of opportunities for advancement or that threatens the security, economy, and infrastructure of the United States.

Information regarding potential violations of the temporary and permanent foreign labor certification processes or related crimes should be forwarded to the OIG Hotline at 1-877-DOL-SAFE or (1-877-365-7233), or to one of the numerous OLRFI offices. When filing an OIG Hotline complaint, it is not necessary to provide names or any other identifying information. Additional information about the OIG, including office locations and contact information is available at:

<http://www.oig.dol.gov/hotlinemain.htm>. For information on ETA's Foreign Labor Certification Program, please visit the following Web site at:  
<http://www.foreignlaborcert.doleta.gov/>

7. **Action required.** Provide this guidance to appropriate staff, especially intake workers and front-line staff within the One-Stop Career Centers. Promptly contact the Trafficking in Persons and Worker Exploitation complaint hotline (1-888-428-7581) at the U.S. Department of Justice should you encounter individuals who you believe may be victims of trafficking in persons. Call the National Human Trafficking Resource Center (NHTRC) at 1-888-3737-888 for training and technical assistance, or to consult about a possible human trafficking situation.
8. **Inquiries.** Questions should be addressed to the appropriate ETA Regional Office.

9. Attachments.

Human Trafficking Web site Resources